

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)
IN THE MATTER OF:)
COMPLAINT C2011-059)
State Ethics Commission,)
Complainant;)
vs.)
Theodore A. Cooper,)
Respondent.)
_____)

BEFORE THE STATE ETHICS COMMISSION

DECISION AND ORDER

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COMMISSION

This matter comes before the State Ethics Commission by virtue of a complaint filed by the State Ethics Commission on February 8, 2011. On May 18, 2011, pursuant to S.C. Code Ann. §8-13-320(10)(i)(Supp. 2010), the State Ethics Commission reviewed the above-captioned complaint charging Respondent, Theodore A. Cooper, with a violation of Section 8-13-1308(D), and probable cause was found to warrant an evidentiary hearing.

Present at the Hearing on July 20, 2011 were Commission Members Edward E. Duryea, Chair, George Carlton Manley and Richard H. Fitzgerald. Respondent was not present, but was duly notice. Complainant was represented by Cathy L. Hazelwood, General Counsel. The following charge was considered:

COUNT ONE
FAILURE TO FILE A PRE-ELECTION CAMPAIGN DISCLOSURE REPORT
SECTION 8-13-1308(D), S.C. CODE ANN., 1976, AS AMENDED

That the Respondent, Theodore A. Cooper, a write-in candidate for Sellers Town Council, on or about January 25, 2009, did fail to timely file a pre-election Campaign Disclosure Report.

STATEMENT OF FACTS

1. The Respondent, Theodore A. Cooper, was a write-in candidate for Sellers Town Council in an election held on February 9, 2010.
2. Commission Investigator Dan Choate testified that during the course of his investigation he determined that by letter dated November 18, 2010, Respondent was advised that his participated in an election on February 9, 2010 required the filing of a campaign disclosure form (CD) prior to January 25, 2010. Since no pre-election CD was received a late filing penalty was being imposed. A Commission employee telephoned Respondent on December 2, 2010 and left a message in which Respondent was instructed that he must file a CD even though he was a write-in candidate. Investigator Choate testified that additional letters were sent to Respondent on December 16, 2010, January 18, 2011 and February 9, 2011 when Respondent was advised that a complaint had been filed against him.
3. Investigator Choate testified that he spoke to Respondent on February 17, 2011 wherein Respondent advised him that he was having difficulty in filling out the required CD. Investigator Choate advised Respondent to contact the Commission staff for assistance. Investigator Choate spoke to Respondent again on February 22, 2011. Respondent stated he had not had time to call the Commission office for assistance.
4. On March 1, 2011 Respondent complied by filing a completed CD online. The late filing penalty of \$2,000 remains unpaid.

CONCLUSIONS OF LAW

Based upon the Findings of Fact, the Commission concludes, as a matter of law:

1. During all times relevant, the Respondent, Theodore A. Cooper, was a candidate as defined by Section 8-13-1300(4).
2. The State Ethics Commission has personal and subject matter jurisdiction
3. Section 8-13-1308(D)(1) provides:

At least fifteen days before an election, a certified campaign report must be filed showing contributions of more than one hundred dollars and expenditures to or by the candidate or committee for the period ending twenty days before the election. The candidate or committee must maintain a current list during the period before the election commencing at the beginning of the calendar quarter of the election of all contributions of more than one hundred dollars. The list must be open to public inspection upon request.

4. Section 8-13-1510(1) provides as follows:

Except as otherwise specifically provided in this chapter, a person required to file a report or statement under this chapter who files a late statement or report or fails to file a required statement or report must be assessed a civil penalty as follows:

(1) a fine of one hundred dollars if not filed within five days after the established deadline provided by law in this chapter;

(2) after notice has been given by certified or registered mail that a required statement or report has not been filed, a fine of ten dollars per calendar day for the first ten days after notice has been given, and one hundred dollars for each additional calendar day in which the required statement or report is not filed, not exceeding five thousand dollars.

DECISION

NOW, THEREFORE, based on the foregoing Findings of Fact and Conclusions of Law, the State Ethics Commission has determined based upon a preponderance of evidence that Respondent Theodore A. Cooper is in violation of Section 8-13-1308(D); and therefore, Respondent Theodore A. Cooper is hereby PUBLICLY REPRIMANDED and the late-filing penalty of \$2,000.00 is assessed.

IT IS FURTHER ORDERED, pursuant to Section 8-13-320, a Judgment in the amount of \$2,000.00 is, and shall be entered against Respondent.

IT IS FURTHER THE ORDER OF THIS COMMISSION that the Clerk of Court of the County in which Respondent was last known to reside shall enter this Order in its Judgment Rolls, without cost to the State Ethics Commission, in the amount of \$2,000.00 upon the Commission's filing of same with the Clerk of Court's Office.

FINALLY, Respondent Theodore A. Cooper has ten (10) days from receipt of this order to appeal this Decision and Order to the full Commission.

IT IS SO ORDERED THIS 11th DAY OF August, 2011.

STATE ETHICS COMMISSION


EDWARD E. DURYEA
HEARING CHAIR

COLUMBIA, SOUTH CAROLINA